## REMARKS

Claims 24, 26-34, 36-38, 40-44, 46, 47, and 49-52 were pending. Claims 24, 26-34, 36-38, 40-44, 46, 47, and 49-52 are rejected under obviousness-type double patenting and 35 U.S.C. § 103(a). In this response, claims 24 and 38 have been amended to include the limitations of claims 28-30. Claims 28-30 have been cancelled. Claim 31 has been amended to depend from claim 24. Claims 53-56 have been added. Newly added claims 53-56 are supported by, for example, step 760 in FIG. 7 and paragraphs [0067]-[0074]. As such, no new matter has been added. Accordingly, claims 24, 26, 27, 31-34, 36-38, 40-44, 46, 47, and 49-56 are pending. In view of the amendment and following remarks, Applicants respectfully request reconsideration and withdrawal of the rejections.

Double Patenting

Claims 24, 26-34, 36 and 37 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over: claims 1-39 of copending Application No. 10/099,881; claims 1-48 of copending Application No. 10/418,415; claims 1-41 of copending Application No. 10/295,794; and claims 1-46 of copending Application No. 10/418,922. Applicants do not necessarily agree with these provisional rejections, but to obviate the rejections with regard to claims 24, 26-34, 36 and 37, Applicants may submit an appropriate terminal disclaimer upon the indication that the claims are otherwise allowable. Applicants request the provisional rejections be held in abeyance until such determination.

Claims 24, 26-34, 36-38, 40-44, 46, 47 and 49-52 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-61 of copending Application No. 10/530,741. Applicants do not necessarily agree with this provisional rejection, but to obviate the rejection with regard to claims 24, 26-34, 36-38, 40-44, 46, 47 and 49-52, Applicants may submit an appropriate terminal disclaimer upon the indication that the claims are otherwise allowable. Applicants request the provisional rejection be held in abeyance until such determination.

Claim Rejections – 35 U.S.C. § 103

Claims 24, 26-34, 36-38, 40-44, 46, 47, and 49-52 are rejected under 35 U.S.C. §103(a) as being unpatentable over Utzinger et al. (US Patent 6,766,184) in view of Lin et al. (US Patent 6,377,841). Applicants respectfully traverse these rejections, particularly with respect to the claims as currently amended.

The Office Action asserts that Utzinger at column 12, lines 7-21 "teaches the collection of fluorescence as an initial screen tool and then further enhancing the diagnostic procedure by collecting reflectance data." (Office Action at p.5). The portion of the Utzinger specification (i.e., column 12, lines 7-21) that the Office Action relies upon is part of Example 2 of Utzinger. In Utzinger Example 2, polarized light is used to take images of pre-cancers by collecting back-scattered light from the upper layers of epithelium. The back-scattered light may be reflectance or fluorescence. The relied upon text merely describes that the quality of fluorescence imaging may be increased because the autofluorescence of stomal layer may be removed and the probe-emitted fluorescent photons that enter tissue, diffuse inside and then back-scatter to tissue surface may be eliminated from the polarization filtered image, and that the quality of the reflectance imaging may be improved because both the hemoglobin absorption and the diffuse background scattering may be dramatically reduced. Thus the text that is relied upon by the Office Action does not teach or suggest screening specimens for a given condition using fluorescence data with illumination at one excitation wavelength, and, when the result is not determinate for at least one of the specimens, using reflectance spectral data to classify that specimen, as recited in independent claims 24 and 38.

Neither does Example 1 of Utzinger disclose the claimed method and system. The Utzinger Example 1 describes that class discrimination may be provided using fluorescence data obtained with illumination at multiple excitation wavelengths where reflectance is not used at all.

Further, the claimed method and system can advantageously resolve diagnostic ambiguities created when a specimen produces a fluorescence spectrum that is not characteristic of a healthy tissue or any known disease state. (See, paragraph [0007] of the present application).

Utzinger discloses generating multispectral images that may include images of fluorescence, reflectance, polarized reflectance, or any combination. But Utzinger does not disclose using fluorescence as an initial screen tool and if the result is indeterminate using

reflectance for further determination, as recited in independent claims 24 and 38. Thus, independent claims 24 and 38 are patentable over Utzinger.

In addition, without acquiescing in the rejections, Applicants amend independent claims 24 and 38 to include the limitations of claims 28-30 that relate to mean normalization of reflectance spectra. The cited references (i.e., Utzinger and Lin), either alone or in combination, do not disclose or suggest normalizing a test reflectance spectrum with a reference reflectance spectrum that includes an average amplitude for each of a plurality of wavelengths by subtracting the average amplitude of the reference reflectance spectrum from an amplitude of the test reflectance spectrum to calculate a residual amplitude at each of the plurality of wavelengths, as recited in independent claims 24 and 38 as amended. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections of independent claims 24 and 38 under 35 U.S.C. § 103(a) and allow these claims. Similarly, Applicants respectfully request that the Examiner withdraw the rejections of claims 26, 27, 31-34, 36, 37, 40-44, 46, 47, and 49-52 under 35 U.S.C. § 103(a) and allow these claims because they variously depend from claims 24 and 38. Claims 28-30 have been cancelled and thus the rejections of these claims are moot. Newly added claims 53-56 are also patentable because they depend from claim 24, which is patentable as discussed above.

## Conclusion

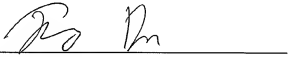
It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this response should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this response, and the remarks herein do not necessarily signify concession of unpatentability of the claims.

For at least the reasons discussed above, Applicants believe the claims are in condition for allowance, which action is respectfully requested. The Examiner is invited to telephone the undersigned attorney if such would expedite prosecution.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 7/25/2008



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